

Exhibit “D”

Richard L. Sanderson
December 5, 2005

1

Volume I, Pages 1-292

Exhibits 1-8

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS

PAUL T. PAPADAKIS,

Plaintiff,

v.

C.A. NO.: 04-30189-MAP

CSX TRANSPORTATION, INC.,

Defendant.

DEPOSITION OF: RICHARD L. SANDERSON

FLYNN & ASSOCIATES, P.C.

400 Crown Colony Drive, Suite 200

Quincy, Massachusetts

December 5, 2005 10:45 a.m.

REPORTED BY: SONYA LOPES/CSR

1 A. Yes.

2 Q. Did you exchange anything written with
3 Mr. Papadakis?

4 A. No.

5 Q. Did you exchange any e-mails with him?

6 A. No.

7 Q. Did you make any notes of your conversation
8 with him?

9 A. No.

10 Q. Did you create any memoranda summarizing
11 those --

12 A. No.

13 Q. -- the conversations?

14 A. No.

15 Q. So there's no written record of what he
16 said to you or what you said to him?

17 A. No.

18 Q. What's your best recollection of what he
19 told you about how the accident occurred?

20 A. Well, my best recollection? My best
21 recollection would be that he told me that when he
22 was raising the Hy-Rail in the front that he tried
23 to put it up into the lock position but when he did
24 that it would fall down.

1 Q. So this is when he was trying to put the --

2 A. Hy-Rail gear.

3 Q. -- into the highway position?

4 A. That he would push down on the bar to put
5 it up into that locking position, but it would fall
6 right back down again.

7 Q. By the way, sir, you've never inspected the
8 actual device that was involved in Mr. Papadakis's
9 case, have you?

10 A. No.

11 Q. You've never even seen it; correct?

12 A. No.

13 Q. You've never seen it?

14 A. I've never seen it. That's correct.

15 Q. What else did he tell you -- so then go on.
16 What else did he tell you?

17 A. And then he said -- let me see. He said he
18 was at the crossing, he tried to raise the Hy-Rail
19 unit, it went up to the top and fell back down and
20 it happened a couple of times. And he was not able
21 to lock it into the position. And then he said
22 somehow he had chained the wheel up with a chain,
23 and that was pretty much it. And that was it.

24 Q. When did he say that he got hurt?

1 A. I don't think he ever did to me.

2 Q. Did you ask him about the history -- his
3 history with the device?

4 A. No, I didn't.

5 Q. Did you ever ask him if he had any problems
6 with the device?

7 A. No, I didn't.

8 Q. Did you ask him if he had the manual?

9 A. I did not, no.

10 Q. Did you ask him if he received any training
11 about the Hy-Railer?

12 A. Yes, I did.

13 Q. What did you ask about that?

14 A. I asked if he knew the procedures to, you
15 know, to work on the Hy-Rail and, you know, get it
16 back.

17 Q. In other words, you asked if he knew --

18 A. Over centre. I mean, we're getting ahead
19 of ourselves.

20 Q. Why?

21 A. Because you asked me something in the
22 beginning. What I'm saying is I didn't explain --
23 he told me. Then I told him.

24 Q. What did you tell him?

1 A. Okay. Going back to the very beginning, I
2 never -- we never finished that conversation, if you
3 can understand what I'm saying. He told me, you
4 know, that that happened, he pushed the bar. And
5 what I said was I don't see how that could happen.
6 I don't see how, you know, when he pushed the bar up
7 that the wheel would fall. I said the -- and why it
8 would not lock.

9 Q. Wait a minute. Is that still your
10 professional opinion? Is it still your professional
11 opinion that the way he described it to you could
12 not happen?

13 A. To raise the wheel, no. The way the wheel
14 fell, yes.

15 Q. So make sure the record is clear. He says
16 to you I'm trying to put it back up, I got the bar
17 in the lower socket, I'm pushing down, the wheel's
18 coming all the way up and falling back down.

19 A. That's what he told me, yes.

20 Q. It's your opinion that that could not
21 happen; correct?

22 MR. BYRNE: Objection. Go ahead.

23 BY MR. FLYNN:

24 Q. Correct?

1 A. Yes.

2 Q. And you explained that to him in your
3 conversation with him even before you -- before you
4 became involved with Mr. Gailor; correct?

5 A. Yeah. Yes. I'd say so.

6 Q. I think you just told me you said to him I
7 don't see how that could happen.

8 A. Yeah. Yeah.

9 Q. That's still your opinion; correct?

10 A. Yes. Yes.

11 Q. What was the next part of that
12 conversation?

13 A. And then I said -- then he took off, said
14 he had to chain the wheel up to lock it. And I said
15 well, to me it sounds like it's overcammed.

16 Q. So you told him that?

17 A. That was my suggestion, yes.

18 Q. You said that it sounds like it's
19 overcammed?

20 A. Yes. I said that.

21 Q. Which was completely different from what he
22 described to you; correct?

23 MR. BYRNE: Objection.

24 A. No.

1 BY MR. FLYNN:

2 Q. Let me ask you this, sir. If he's putting
3 it up to the highway position, the guide wheel is
4 rotating back toward the vehicle; correct?

5 A. It's going into the stored position.

6 Q. Which is back toward the vehicle; correct?

7 A. Toward the tire.

8 Q. We know what it looks like here. There's
9 an arm -- there's an axle that comes out from the
10 socket; correct?

11 MR. BYRNE: Objection.

12 A. There's a socket. There's two sockets.

13 BY MR. FLYNN:

14 Q. There's two sockets, one on the top, one on
15 the bottom.

16 A. The one on the bottom would be the one he
17 would use to store it.

18 Q. The socket ratchet, essentially, is an axle
19 which goes out from the ratchet to the pivot arm at
20 the end of which is the guide wheel; correct?

21 MR. BYRNE: Objection.

22 A. There is a Hy-Rail gear. And attached to
23 the Hy-Rail gear is a subassembly with a lower
24 socket which attached to that is the arm that